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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
HEITBRINK, JILL LYNNE	

ART UNIT	PAPER NUMBER
1732	

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/748,356	EMERLING, DAVID M.	
	Examiner	Art Unit	
	Jill L. Heitbrink	1732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 January 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,4-7 and 10-18* is/are pending in the application.

4a) Of the above claim(s) *11-16* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,4-7,10,17,18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Election/Restrictions

1. This application contains claims 11-16 drawn to an invention nonelected with traverse in the reply filed on Aug. 19, 2004. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1, 2, 4, 5, 6, 7, 10, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamashita et al. Pat. No. 6,106,952 taken together with Bertschi et al. Pat. No. 5,789,033, and further in view of Susko et al. Pat. No. 5,996,866.

4. Yamashita discloses a process of manufacturing a component of a center console (col. 16, lines 56 and 57) for a vehicle. Yamashita discloses the steps (col. 16, lines 1-16) of injecting a first molten thermoplastic material into a mold cavity thereby forming a structural element, "exchanging mold cavities by rotation or transfer of molds", and injecting a second molten thermoplastic material to form at least one soft-touch area (col. 17, lines 5-12) bonded to and adjacent at least a portion of the structural element. Yamashita does not specifically define the density of the first and second thermoplastic materials. The first material (such as one of the materials listed at col. 14, line 58-col. 15, line 13) would clearly be molded for strength in the use of a center

console component and thus would have a higher density than the second thermoplastic polymer composition. Bertschi (Fig. 11) teaches the actuating a core (260) within a mold cavity so as to partition at least one area of the mold cavity to prevent a first molten thermoplastic material from completely filling the mold cavity and the retracting of the core to provide at least one secondary void within the mold cavity for the injection of a second molten thermoplastic material. It would have been obvious to a person of ordinary skill in the art to use a retracting core to form the first and second cavity for the first and second material in Yamashita since this with provide the desired shape of the cavities. Both Yamashita and Bertschi teach the permitting a predetermined lapse of time prior to permitting the structural element to partially cure prior to retracting the retractable core since the material is cured so as to at least retain its shape when the cavity shape is changed.

5. Susko teaches a center console with a lid and a housing with sidewalls. It would have been obvious to a person of ordinary skill in the art to mold a console with a lid and a housing with sidewalls using the process of forming a center console of Yamashita since the shape of cavity and the shape of the article are directly related.

6. Claims 6, 7, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamashita et al. Pat. No. 6,106,952 taken together with Sorensen et al. Pat. No. 5,049,343, and further in view of Susko et al. Pat. No. 5,996,866.

7. Yamashita discloses a process of manufacturing a component of a center console (col. 16, lines 56 and 57) for a vehicle. Yamashita discloses the steps (col. 16,

lines 1-16) of injecting a first molten thermoplastic material into a mold cavity thereby forming a structural element, "exchanging mold cavities by rotation or transfer of molds", and injecting a second molten thermoplastic material to form at least one soft-touch area (col. 17, lines 5-12) bonded to and adjacent at least a portion of the structural element. Yamashita does not specifically define the density of the first and second thermoplastic materials. The first material (such as one of the materials listed at col. 14, line 58-col. 15, line 13) would clearly be molded for strength in the use of a center console component and thus would have a higher density than the second thermoplastic polymer composition. Sorensen teaches a mold having first and second die halves (58, 62) and a core moveably supported relative to the die halves and disposed there between to define a first and second mold cavity. It would have been obvious to a person of ordinary skill in the art to use a central core between to mold halves to form the first and second cavity for the first and second material in Yamashita since this would provide the desired shape of the cavities. Both Yamashita and Sorensen teach the permitting a predetermined lapse of time prior to permitting the structural element to partially cure prior to retracting the retractable core since the material is cured so as to at least retain its shape when the cavity shape is changed.

8. Susko teaches a center console with a lid and a housing with sidewalls. It would have been obvious to a person of ordinary skill in the art to mold a console with a lid and a housing with sidewalls using the process of forming a center console of Yamashita since the shape of cavity and the shape of the article are directly related.

Response to Arguments

9. Applicant's arguments filed Jan. 24, 2005 have been fully considered but they are not persuasive.

10. Applicant argues that Yamashita does not disclose a method of manufacturing a component of a center console assembly by actuating a core within a mold cavity and injecting a first molten thermoplastic material to define a substrate that serves as a lid of a center console and then retracting the core to provide a secondary void with the mold cavity to receive an injection of a second molten thermoplastic material having a density less than that of the first molten thermoplastic material to define a soft-touch area on the lid. Applicant argues that Yamashita does not disclose the method for defining a housing of a center counsel assembly wherein the injection of a second molten thermoplastic material defines a soft-touch area on at least one sidewall of the housing as in claim 4. Further, applicant argues that Yamashita does not disclose a method of manufacturing a center console assembly by providing a mold having a movable core supported relative to first and second die halves; injecting a first molten thermoplastic material into the first mold cavity to define a lid for a center console; moving the core to define a second die cavity and injecting a second molten thermoplastic material to define a soft-touch area on the lid, as in claim 6. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800

F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case, claims 1, 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamashita et al. taken together with Bertschi et al. in view of Susko et al as stated in the rejection above wherein Yamashita has clear motivation for the combination of references.

11. Applicant argues that Bertschi does not disclose a method of manufacturing a component of a center console assembly by actuating a core within a mold cavity and injecting a first molten thermoplastic material to define a substrate that serves as a lid of a center console and then retracting the core to provide a secondary void with the mold cavity to receive an injection of a second molten thermoplastic material having a density less than that of the first molten thermoplastic material to define a soft-touch area on the lid. Applicant argues that Bertschi does not disclose the method for defining a housing of a center counsel assembly wherein the injection of a second molten thermoplastic material defines a soft-touch area on at least one sidewall of the housing as in claim 4. Further, applicant argues that Bertschi does not disclose a method of manufacturing a center console assembly by providing a mold having a movable core supported relative to first and second die halves; injecting a first molten thermoplastic material into the first mold cavity to define a lid for a center console; moving the core to define a second die cavity and injecting a second molten thermoplastic material to define a soft-touch area on the lid, as in claim 6. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231

USPQ 375 (Fed. Cir. 1986). In this case, claims 1, 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamashita et al. taken together with Bertschi et al. in view of Susko et al as stated in the rejection above wherein Yamashita has clear motivation for the combination of references.

12. Applicant argues that Susko does not disclose a method of manufacturing a component of a center console assembly by actuating a core within a mold cavity and injecting a first molten thermoplastic material to define a substrate that serves as a lid of a center console and then retracting the core to provide a secondary void with the mold cavity to receive an injection of a second molten thermoplastic material having a density less than that of the first molten thermoplastic material to define a soft-touch area on the lid. Applicant argues that Susko does not disclose the method for defining a housing of a center counsel assembly wherein the injection of a second molten thermoplastic material defines a soft-touch area on at least one sidewall of the housing as in claim 4. Further, applicant argues that Susko does not disclose a method of manufacturing a center console assembly by providing a mold having a movable core supported relative to first and second die halves; injecting a first molten thermoplastic material into the first mold cavity to define a lid for a center console; moving the core to define a second die cavity and injecting a second molten thermoplastic material to define a soft-touch area on the lid, as in claim 6. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231

USPQ 375 (Fed. Cir. 1986). In this case, claims 1, 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamashita et al. taken together with Bertschi et al. in view of Susko et al as stated in the rejection above wherein Yamashita has clear motivation for the combination of references.

13. Applicant argues that Sorensen does not disclose a method of manufacturing a center console assembly by providing a mold having a movable core supported relative to first and second die halves; injecting a first molten thermoplastic material into the first mold cavity to define a lid for a center console; moving the core to define a second die cavity and injecting a second molten thermoplastic material to define a soft-touch area on the lid, as in claim 6. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case, claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yamashita et al. taken together with Sorensen et al. in view of Susko et al as stated in the rejection above wherein Yamashita has clear motivation for the combination of references.

14. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does

not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

15. Applicant argues that Yamashita is silent as to the density of the other material of the laminate structure. However, as stated in the rejection, Yamashita does not specifically define the density of the first and second thermoplastic materials. The first material (such as one of the other materials listed at col. 14, line 58-col. 15, line 13) would clearly be molded for strength in the use of a center console component and thus would have a higher density than the second thermoplastic polymer composition. Yamashita discloses that the first and second injection of the material is reversible (col. 16, lines 17-22) and discloses that the material (second) may have a foaming agent or other additives (col. 14, lines 8-14). Therefor, the injection of the material of less density second would have been obvious in Yamashita since the two material would bond in any order and the design and shape of the center console would determine the shape and order of molding. Applicant has not disclosed the second material in the present specification, only defining it as having less density. Therefor, any type of thermoplastic material such as a foam is usable as the second material.

16. Applicant argues that Bertschi does not teach manufacturing a component of a center console assembly including the use of a mold having first and second die halves and a core moveably supported relative to the die halves. However, applicant states that Bertschi teaches injection into a mold cavity that is defined by a male mold half, a female mold half, and a mold core that can be drawn back. Bertschi meets applicants

first and second die halves as defined in claim 6 since the female mold half is a first die half and the male mold half is a second die half and the mold core is the moveable core.

17. Applicant argues that Sorensen does not disclose or suggest a method of manufacturing a component for a center console assembly including the injection of a first and a second thermoplastic material having differing densities into a mold cavity. However, Sorensen discloses more than just producing rear lights for automobiles; it also includes the manufacturing of a container and a lid of a multi-walled product with an oxygen barrier in one of the walls, an audio cassette or a front or rear bumper for an automobile (col. 7, lines 38-42). Clearly, the application of Sorensen's teaching of what the exchanging of mold cavities by rotation or transfer of molds in Yamashita (col. 16, lines 5 and 6) would have obviously comprised provides the teaching of a first and second die halves and a core moveably supported relative to the die halves and the motivation for the combination in a rotation or transfer of molds. Additionally, Applicant argues that Sorensen does not disclose a method that includes providing a mold having a movable core supported relative to first and second die halves to define a lid for a center console having a soft-touch area. However, the method of Sorensen is directed to a mold having a movable core (60) supported relative to first (58) and second (62) die halves. This molding method would have been used to form many different shaped products depending upon the shape of the cavity wherein basic shape of the injection molding cavity of center console boxes is conventional.

18. Applicant argues that Susko merely discloses a phone holder for a vehicle console that is movable between closed and opened positions but otherwise does not

address any of the deficiencies in the references as discussed above. However, the examiner is using Susko to teach the conventional shape of a center console which would include a lid and housing as shown in the Figures of Susko. Yamashita discloses the forming of a center console and a person of ordinary skill in the art would have considered this console as comprising a lid and a housing.

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jill L. Heitbrink whose telephone number is (571) 272-1199. The examiner can normally be reached on Monday-Friday 9 am -2 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jill L. Heitbrink
Primary Examiner
Art Unit 1732

jlh